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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,187	02/12/2004	Toshio Masuda	F0937-US	3078
21254	7590	11/30/2005		
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			EXAMINER ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/776,187	MASUDA ET AL.	
	Examiner	Art Unit	
	Gregory W. Adams	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

*u* Claim 1 is objected to because of the following informalities: <sup>lines</sup> ~~Claims~~ 23-24 recited a "sliders engaging with said first ends of said drive link" when Fig. 5 indicates that slider (#12) engages with a connecting link (#17). Thus line 23-24 should read – sliders engaging with a connecting link--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

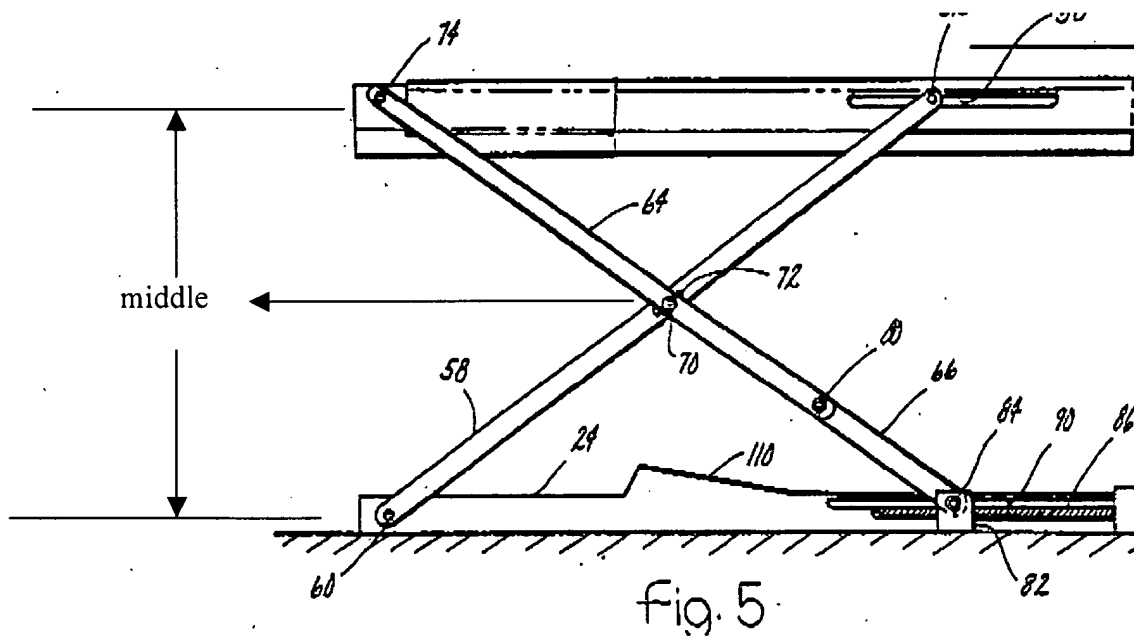
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

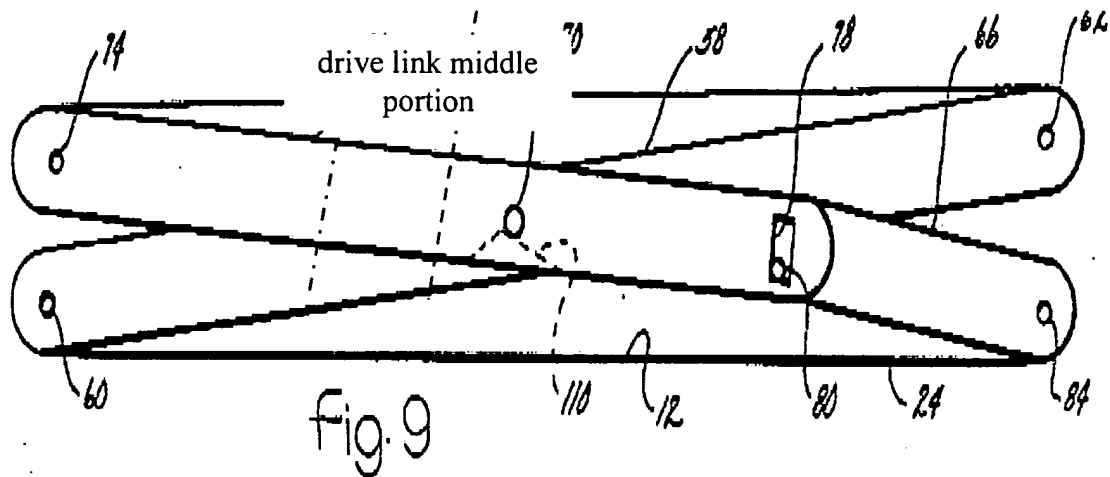
2. Claims 1-2 & 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Pawl (US 4,969,793) (previously cited).

With respect to claim 1, Pawl discloses a concaved storage portion comprising a transfer mechanism, rail frame 24, drive links 64 connected between a rail frame 24 and a plate member 34 and driven links 58 connected between a rail frame 24 and a plate member 34 wherein drive links 64 connect with driven links 58 at a middle (see FIG. 5 below), a plurality of sliders 24 that engage with drive links 64, a driving mechanism 100 wherein each drive link includes a contacting portion 70 between a drive link middle portion and drive link first end (see FIG. 9 reproduced below) wherein a contacting portion 70 contacts a sloped slider 110 contacting surface. It is noted that Pawl's slider

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permits sliding contact of a contacting portion 70 over a slider contacting surface 110 and sliding contact of pin 92 along slot 90. It is noted that a portion comprises a section, but not a point, i.e. a portion is a sub-length of an entire length. This proposition is supported by Applicant's contrasting use of portion and point. In Applicant's Specification, page 3, lines 4-5 a point is defined as a middle point for connecting two links contrasted with line 21 in which applicant defines a portion as that area of sloping sidewall in relation to a sloping sidewall. Thus, portion does not comprise a point.





With respect to claim 2, Pawl discloses spare tire portion and a plate member that transfers up and down in a luggage space. It is noted that Applicant's intended use of placement in a spare tire compartment is afforded no patentable weight as it creates no patentable distinction between it and the cited prior art. However, Pawl's mechanism anticipates a spare tire 18 compartment.

With respect to claim 5, Pawl discloses a plate member frame 36 connecting a drive link and driven link and a driving member 102. It is noted that broadly construed "driving member" is something that imparts motion or motive force to another object, e.g. shaft, motor, gear, pulley, cable or belt.

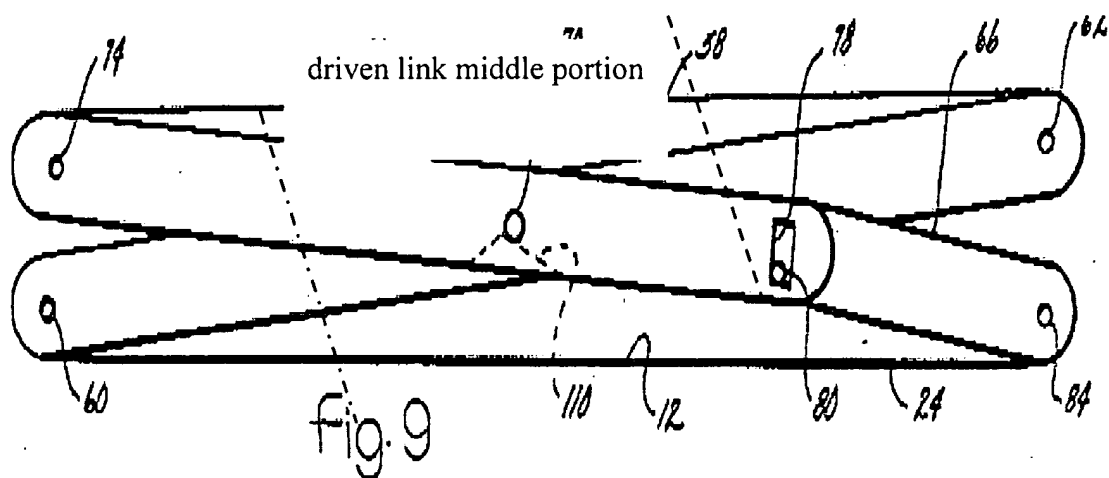
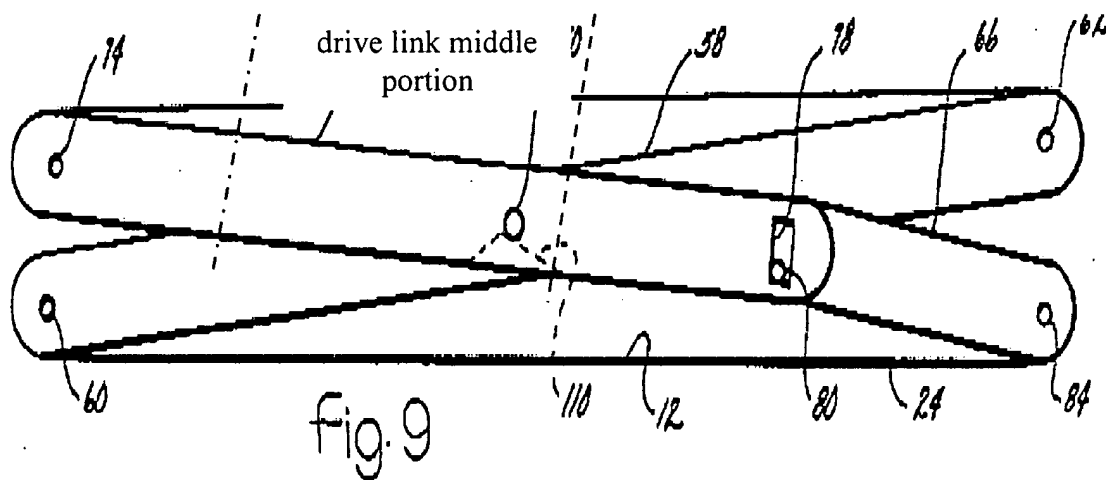
With respect to claim 7, Pawl discloses slider transfer guide groove 90, connecting link 66 connected to a drive link 64 and a slide pin 92 which transfer within a transfer guide groove 90.

With respect to claim 11, Pawl discloses an initial transfer zone where a contacting portion contacts a contacting surface and a normal transfer zone where driving force is transmitted from a slider.

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With respect to claim 12, Pawl discloses drive links that are different length than driven links.

With respect to claim 13, Pawl discloses a middle portion of each driven link is connected with a middle portion of each drive link. For example, as shown in FIG. 9 reproduced below a middle portion for a drive link is approximated as well as a driven link middle portion.



**Claim Rejections - 35 USC § 103**

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

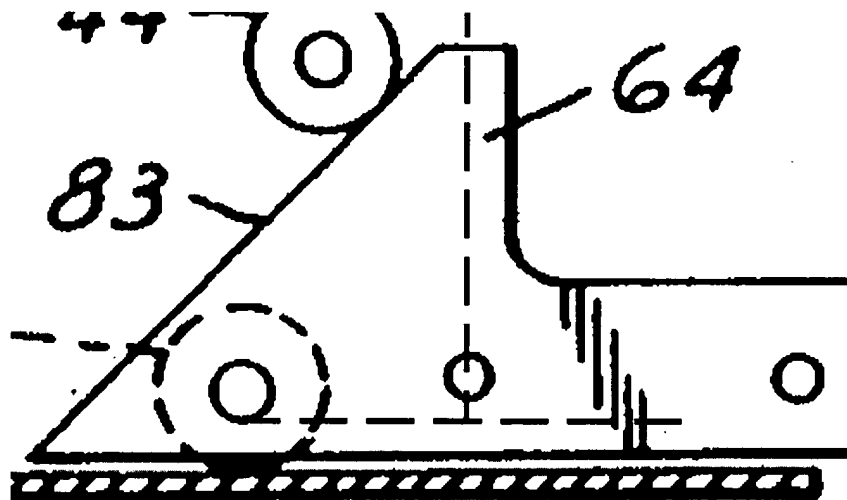
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pawl (US 4,969,793) in view of Colburn (US 3,752,331) (previously cited). Pawl does not disclose two motors. Colburn teaches two motors 40 for raising a plate "so that the output thereof will be simultaneously utilized to drive both screws thereby raising the platform an equal amount on opposite sides thereof" for accurate load alignment and lifting. Col. 4, Ins. 35-65. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Pawl to include two motors, as per the teachings of Colburn, to provide uniform plate lifting.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pawl (US 4,969,793) in view of Carlsson et al. (US 2002/0070574) (previously cited). Pawl discloses a plate member frame 34 but does not disclose a lock portion or mechanism. Carlsson et al. disclose a lock portion and a locking mechanism, and release 23 to ensure that a plate 7 is locked when in the lowered, closed position, securing goods placed within a storage concave portion. Col. 1, Ins. 5-35; col. 3, Ins. 1-15. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Pawl to include a locking portion and mechanism, as per the teachings of Carlsson et al., locking a lowered plate, securing goods placed within a storage concave portion.

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6. Claims 8-9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pawl (US 4,969,793) in view of Smillie, III et al. (US 5,054,578) (previously cited). Pawl discloses and a sub rail 24 for a connecting link 66 and do not disclose a main rail for a slider. Smillie, III et al. disclose a rail frame main rail for a T-shaped slider 46, 64 (See FIG. 7 reproduced below). Smillie et al. teach a sub rail to provide a lift for vehicle trunks made of small, space saving components yet overcomes the greatest load which is associated with initially starting movement, or overcoming inertia. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Pawl to include a main rail for a slider, as per the teachings of Smillie, III et al., to overcome the greatest load which is associated with initially starting movement, or overcoming inertia.



7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pawl (US 4,969,793) in view of Mitchell (US 2,249,845) (previously cited). Pawl does not disclose legs or a folding chair. Mitchell disclose a leg set 17 and a folding chair 19 such that camp table can be easily set up or taken down while providing seating capacity for



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a number of people at said camp table upon retraction from a vehicle. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Pawl to include a let set and chair with a plate member, as per the teachings of Mitchell, such that a retractable plate member will provide ready seating at a camp site for a number of people. It is noted that for at least the reason of addressing supporting plate members which extend from a trunk Mitchell is analogous art.

### ***Response to Arguments***

8. Applicant's arguments filed September 19, 2005 have been fully considered but they are not persuasive. It is noted that Applicant has cancelled claim 3 and added claims 7-13.

With respect to claims 1-2 & 5 Applicant argues that Pawl does not disclose a slider or contacting portion. The Examiner admits to too narrow a construction of Pawl in the Non-Final Office Action when the Examiner wrote that Pawl does not disclose a contacting surface or contacting portion. Pawl discloses a contacting portion 70 that contacts a slider 110 for pivoting a connecting link 66 upward. Further, as noted above under claim 1 art rejections, Pawl's contacting portion 70 is positioned between a drive link middle portion and a drive link end first end. It is noted that a portion comprises a section, but not a point, i.e. a portion is a sub-length of an entire length. This proposition is supported by Applicant's contrasting use of "portion" and "point". In Applicant's Specification, page 3, lines 4-5 "point" is defined as a middle point for connecting two

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links contrasted with line 21 in which applicant defines a "portion" as that area of sloping sidewall in relation to a sloping sidewall. Thus, portion is not a point.

With respect locating a contacting portion at a particular point along a drive link, Smillie locates a contacting portion relatively close to a drive link mid-point, Pawl locates towards a drive link first end, and Oakman (US 4,890,692) locates a contacting portion closer still to a drive link first end. Thus, given the lineage of prior art it would have been obvious to one skilled in the art to locate a contacting portion anywhere along a drive link.

With respect to claim 3 (now cancelled), 4 & 6, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). For example, Smillie and Colburn are analogous art for addressing problems related to raising and lowering plate members with scissor lifts and Carlsson is analogous art for addressing problems related to securing valuables within a closable, recessed vehicle compartment.

Although since cancelled, with respect to claim 3, e.g. the Smillie reference, Applicant argues that Smillie does not disclose a contacting portion provided between a middle portion of a drive link and a drive link first end. As noted in figures included with

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102(b) art rejections above this argument is irrelevant given that Pawl anticipates locating a contacting portion between a drive link middle portion and a drive link first end. Applicant also argues that Smillie's plate member 32 is not a plate member because Smillie's actuation screw is in the way, i.e. Smillie's plate could not cover a concave portion. Pawl is offered as a plate member for covering a concave portion, e.g. the area in which a spare tire is stowed. The fact that Smillie does not function as a cover for a concave portion is irrelevant to a discussion of intended use where there are no patentable differences between Applicant's invention as claimed and the cited prior art. One could use Smillie over a concave trunk given that all that is required according to Applicant's claim 1 is a plate member.

With respect to claim 4, Applicant's arguments that Colburn does not disclose a contacting portion, drive links, sliders, contacting surface or plate member is irrelevant because Pawl discloses this structure. And the fact that Colburn does not disclose the aforementioned structure does not support a logical conclusion that Colburn is not analogous art. For at least the reason of plate members elevated by scissor lifts Colburn is analogous.

With respect to claim 6 Applicant argues essentially that Carlsson is not an appropriate modifying reference because Carlsson's plate member is a swinging door. However, as noted above under 103(a) art rejections Carlsson is not offered for the proposition of hinging a plate member because Pawl already provides the requisite structure to impart motion. Carlsson modifies Pawl's idea of a movable plate covering a recessed compartment in a vehicle. It would have been obvious to add a lock to Pawl's

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plate member if one were to stow valuables within said compartment. Thus, for at least this reason Carlsson deals with analogous art. Applicant's argument that Carlsson does not disclose a contacting portion, drive links, sliders, contacting surface or plate member is irrelevant because Pawl discloses this structure.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

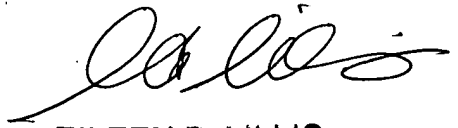
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



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